



STATE OF NEW YORK
DEPARTMENT OF HEALTH
P.O. Box 11729
Albany, NY 12211

Notice of Decision

Decision Date: January 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022672

[REDACTED]

[REDACTED]

On November 27, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's August 22, 2017 enrollment confirmation notice and the September 13, 2017 disenrollment notice.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the Account ID at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545.

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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Decision

Decision Date: January 18, 2018

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000022672

[REDACTED]

Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your children's enrollment in their Child Health Plus plan ended no earlier than September 30, 2017?

Procedural History

December 15, 2016, NYSOH issued a notice of enrollment confirming your children were enrolled in a Child Health Plus plan, effective January 1, 2017.

On August 3, 2017, NYSOH issued a disenrollment notice stating your children's Child Health Plus coverage would end on July 31, 2017, because you did not pay the insurance bill by the payment deadline.

On August 12, 2017, several incidents were created regarding your request to reinstate your children in their Child Health Plus plan for the month of August 2017.

On August 22, 2017, NYSOH issued a notice of enrollment, based on your August 21, 2017 plan selection, confirming your children were reenrolled in a Child Health Plus plan, effective September 1, 2017.

On September 13, 2017, NYSOH issued a disenrollment notice, based on your September 12, 2017 request, stating your children's Child Health Plus coverage would end on September 30, 2017.

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On September 21, 2017, you spoke to NYSOH's Account Review Unit and appealed the date of your children's disenrollment from their Child Health Plus plan, insofar as their coverage did not end earlier than September 30, 2017.

On November 27, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed thereafter.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) Your children were enrolled in a full cost Child Health Plus plan, effective January 1, 2017.
- 2) According to your account, on August 2, 2017, your children's health plan initiated termination of their coverage for non-payment of premium. Their coverage was terminated effective July 31, 2017.
- 3) On August 12, 2017, you contacted NYSOH and several incidents were created regarding your request to reinstate your children in their coverage for the month of August 2017.
- 4) Notes from Incident [REDACTED] on Augusts 12, 2017 include: "No enrollment submitted, children are starting ESI under dad for 9/1/17."
- 5) On August 21, 2017, you contacted NYSOH to check on the status of your prior reinstatement request. A new incident was created, [REDACTED], and notes from that incident indicate that as of August 23, 2017 your case was being forwarded to the Department of Health for review.
- 6) The Appeals Unit reviewed telephone call recordings from August 2017 and determined the following:
 - a. You called on August 12, 2017 to request your children be reinstated in their Child Health Plus coverage for the month of August 2017.
 - b. The representative acknowledged that notes from a previous call showed that children were not going to be enrolled with NYSOH as of September 1, 2017. You confirmed that was true.
 - c. The representative indicated she would proceed with a reinstatement request without reenrolling the children.

- d. On September 21, 2017, you contacted NYSOH to check on the status of your reinstatement request.
 - e. The representative indicated that the children would have to be reenrolled to process a request to backdate their coverage.
 - f. You told the representative that your children would be covered under your employer sponsored health insurance beginning September 1, 2017 so they only need coverage for the month of August 2017.
 - g. The representative indicated that once the plans were selected, he could make notes regarding the children's third-party insurance beginning in September.
 - h. The representative reenrolled your children into their Fidelis Care Child Health Plus plan.
 - i. You were transferred to the Accounts Review Unit where you again advised the representative that you were only seeking reinstatement for the month of August 2017.
- 7) Your children were reenrolled into a Child Health Plus plan on August 21, 2017 and coverage through that plan became effective September 1, 2017.
- 8) On September 12, 2017, you contacted NYSOH and incident [REDACTED] was created regarding your request to end your children's coverage, effective August 31, 2017, because they had coverage under your employer sponsored insurance beginning September 1, 2017.
- 9) Your children's subsequent enrollment was terminated effective September 30, 2017.
- 10) According to notes from incident [REDACTED], on September 21, 2017 you requested to cancel your previous request to reinstate your children in their Child Health Plus plan for the month of August 2017.
- 11) You testified that you made the September 2017 premium payment for your children's Child Health Plus coverage and you are seeking reimbursement of that payment.
- 12) You testified your children did not use their Child Health Plus coverage in the months of August or September 2017 and they have no outstanding medical bills from those months.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Valid Appeal Requests

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) a failure by NYSOH to provide timely notice of an eligibility determination 45 CFR § 155.505; and (4) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

Individual applicants and enrollees must request a hearing within sixty (60) days of the date of their notice of eligibility determination by NYSOH (45 CFR § 155.520(b)(2); 18 NYCRR 358-3.5(b)(1)).

Child Health Plus Disenrollment Date

The State plan must include a description of the state's policies governing enrollment and disenrollment (see 42 CFR § 457.305(b)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

If a child ceases to be eligible for Child Health Plus because the child no longer resides in New York State or gains access to or obtains other health insurance coverage, the period of eligibility ends the last day of the month in which the child ceases to be an eligible child (NY Public Health Law §2510(6)(a)).

If the enrollee requests a disenrollment, the request is effective the first day of the month following the receipt of the enrollee's request or effective on a future date if requested by the enrollee (NYSDOH 2008-2012 Model Contract (Appendix C Section 12.2)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your children's enrollment in their Child Health Plus plan ended no earlier than September 30, 2017.

Your children were enrolled in a full cost Child Health Plus plan, effective January 1, 2017. According to your account, on August 2, 2017, your children's health

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plan initiated termination of their coverage for non-payment of the premium. Their coverage was terminated on July 31, 2017.

It is noted that your children's July 31, 2017 disenrollment is not under review because the NYSOH Appeal Unit does not have the authority to review termination of enrollment due to non-payment of premiums, nor has there been a timely appeal of that disenrollment. Thus, this decision will not address the merits of your children's July 31, 2017 disenrollment from their Child Health Plus plan.

According to your account, you contacted NYSOH on August 12, 2017 to request your children be reinstated in their Child Health Plus plan for the month of August 2017. At that time, the representative acknowledged that notes from a previous call showed that the children were not going to be enrolled with NYSOH as of September 1, 2017.

You contacted NYSOH again on August 21, 2017 to check on the status of your reinstatement request and you were advised that you had to reenroll your children to process a request to backdate their coverage to August 1, 2017. You told the representative that your children would be covered under your employer sponsored health insurance beginning September 1, 2017 so they only needed coverage for the month of August 2017. You were transferred to the Accounts Review Unit where you, again, advised the representative that you were only seeking reinstatement for your children for the month of August 2017.

On August 21, 2017, your children were reenrolled into a Child Health Plus plan, effective September 1, 2017. On September 12, 2017, you contacted NYSOH again and requested to end your children's Child Health Plus coverage on August 31, 2017, because they had coverage under your employer sponsored plan as of September 1, 2017.

As discussed above, your children's Child Health Plus coverage was terminated, effective July 31, 2017. Although several requests to reinstate your children's coverage for the month of August 2017 were submitted on your behalf, there is no evidence in the account that the request was ever granted. Furthermore, according to your account, on September 21, 2017 you requested to cancel your previous reinstatement request. Thus, it is concluded that your children's initial Child Health Plus enrollment ended on July 31, 2017.

It is further concluded that your children's subsequent September 1, 2017 Child Health Plus enrollment was without your consent. The evidence establishes that NYSOH was on notice, at least as of August 12, 2017, that your children would be enrolled in employer sponsored health coverage outside the market plan beginning September 1, 2017. You unequivocally stated to several different representatives in August 2017, that you were not seeking coverage for your children for the month of September 2017. However, your children were reenrolled into a Child Health Plus plan for the month of September 2017, apparently in an attempt to process a request to backdate their coverage for the

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month of August 2017. However, the backdate request was never resolved. As a result, your children were without coverage in the month of August 2017 as desired and instead had overlapping coverage for the month of September 2017. This was very clearly not your intention. Thus, it is concluded that the subsequent September 1, 2017 enrollment of your children in their Child Health Plus plan was an error.

As such, the August 22, 2017 enrollment confirmation notice stating your children were enrolled in a Child Health Plus plan, effective September 1, 2017, was not correct and must be RESCINDED.

The September 13, 2017 disenrollment notice is MODIFIED to reflect your children's Child Health Plus coverage ended on July 31, 2017.

Your case is RETURNED to NYSOH to correct your children's enrollment in accordance with this decision.

Decision

The August 22, 2017 enrollment confirmation notice is RESCINDED.

The September 13, 2017 disenrollment notice is MODIFIED to reflect your children's Child Health Plus coverage ended on July 31, 2017.

Your case is RETURNED to NYSOH to correct your children's enrollment in accordance with this decision.

Effective Date of this Decision: January 18, 2018

How this Decision Affects Your Eligibility

Your children's enrollment in their Child Health Plus plan should have ended on July 31, 2017.

Your case is being sent back to NYSOH to disenroll your children from their Child Health Plus plan for the month of September 2017.

If You Disagree with this Decision (Appeal Rights)

This Decision is final unless you submit an appeal request to the Federal Marketplace or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

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You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the Federal Marketplace. This must be done within 30 days of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you have questions about appealing to the Federal Marketplace, you can contact them in any of the following ways:

- By calling the Customer Service Center at 1-800-318-2596
- By mail at:
Health Insurance Marketplace
Attn: Appeals
465 Industrial Blvd.
London, KY 40750-0061
- By fax: 1-877-369-0129

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

If You Have Questions about this Decision (Customer Service Resources):

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The August 22, 2017 enrollment confirmation notice is RESCINDED.

The September 13, 2017 disenrollment notice is MODIFIED to reflect your children's Child Health Plus coverage ended on July 31, 2017.

Your case is RETURNED to NYSOH to correct your children's enrollment in accordance with this decision.

Your children's enrollment in their Child Health Plus plan should have ended on July 31, 2017.

Your case is being sent back to NYSOH to disenroll your children from their Child Health Plus plan for the month of September 2017.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:



Getting Help in a Language Other than English

This is an important document. If you need help to understand it, please call 1-855-355-5777. We can give you an interpreter for free in the language you speak.

Español (Spanish)

Este es un documento importante. Si necesita ayuda para entenderlo, llame al 1-855-355-5777. Le proporcionaremos un intérprete sin ningún costo.

中文 (Traditional Chinese)

這是重要的文件。如果您需要獲得關於瞭解文件內容方面的協助，請致電 1-855-355-5777。我們可以為您免費提供您所使用語言的翻譯人員。

Kreyòl Ayisyen (Haitian Creole)

Sa a se yon dokiman ki enpòtan. Si ou bezwen èd pou konprann li, tanpri rele nimewo 1-855-355-5777. Nou kapab ba ou yon entèprèt gratis nan lang ou pale a.

中文 (Simplified Chinese)

这是一份重要的文件。如果您需要帮助理解此文件，请打电话至 1-855-355-5777。我们可以为您提供相应语种的口译服务。

Italiano (Italian)

Questo è un documento importante. Per qualsiasi chiarimento può chiamare il numero 1-855-355-5777. Possiamo metterle a disposizione un interprete nella sua lingua.

한국어 (Korean)

중요한 서류입니다. 이해하는 데 도움이 필요하시면 1-855-355-5777 번으로 연락해 주십시오. 귀하의 언어에 대한 무료 통역 서비스가 제공됩니다.

Русский (Russian)

Это важный документ. Если Вам нужна помощь для понимания этого документа, позвоните по телефону 1-855-355-5777. Мы можем бесплатно предоставить Вам переводчика Вашего языка.

العربية (Arabic)

هذه وثيقة مهمة. إذا كنت بحاجة إلى مساعدة لفهم محتواها، يرجى الاتصال بالرقم 1-855-355-5777. يمكننا توفير مترجم فوري لك باللغة التي تتحدثها مجاناً.

বাংলা (Bengali)

এটি এক গুরুত্বপূর্ণ নথি। এটি বুঝতে আপনার যদি সাহায্যের প্রয়োজন হয় তাহলে, অনুগ্রহ করে 1-855-355-5777 নম্বরে কল করুন। আপনি যে ভাষায় কথা বলেন বিনামূল্যে আমরা আপনাকে একজন দোভাষী দিতে পারি।

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Français (French)

Ceci est un document important. Si vous avez besoin d'aide pour en comprendre le contenu, appelez le 1-855-355-5777. Nous pouvons mettre gratuitement à votre disposition un interprète dans votre langue.

हिंदी (Hindi)

यह एक महत्वपूर्ण दस्तावेज़ है। अगर आपको इसे समझने में सहायता चाहिए, तो कृपया 1-855-355-5777 पर कॉल करें। हम आपकी भाषा बोलने वाला एक दुभाषिया निःशुल्क उपलब्ध करवा सकते हैं।

日本語 (Japanese)

これは重要な書類です。理解するために支援が必要な場合は、1-855-355-5777 にお電話ください。通訳を無料で提供いたします。

नेपाली (Nepali)

यो एउटा महत्वपूर्ण कागजात हो। यसलाई बुझ्न तपाईंलाई मद्दत चाहिन्छ भने, कृपया 1-855-355-5777 मा फोन गर्नुहोस्। हामीले तपाईंले बोल्ने भाषामा तपाईंलाई निःशुल्क दोभाषे उपलब्ध गराउन सक्छौं।

Polski (Polish)

To jest ważny dokument. W przypadku konieczności skorzystania z pomocy w celu zrozumienia jego treści należy zadzwonić pod numer 1-855-355-5777. Istnieje możliwość uzyskania bezpłatnej usługi tłumacza języka, którym się posługujesz.

Twi (Twi)

Krataa yi ye tow krataa a ho hia. Se wo hia eho nkyerekyeremu a, ye sre wo, fre 1-855-355-5777. ye&btumi ama wo obi a okyer& kasa a woka no ase ama wo kwa a wontua hwee.

(Urdu) اردو

یہ ایک اہم دستاویز ہے۔ اگر آپ کو اسے سمجھنے کے لیے مدد کی ضرورت ہے تو براہ کرم 1-855-355-5777 پر کال کریں۔ ہم آپ کو آپ کی مادری زبان میں ایک مفت مترجم فراہم کر سکتے ہیں۔

Tiếng Việt (Vietnamese)

Đây là tài liệu quan trọng. Nếu quý vị cần trợ giúp để hiểu tài liệu này, vui lòng gọi 1-855-355-5777. Chúng tôi có thể cung cấp thông dịch viên miễn phí nói ngôn ngữ của quý vị.

אידיש (Yiddish)

דאס איז א וויכטיגער דאקומענט. אויב איר דארפט הילף עס צו פארשטיין, ביטע רופט 1-855-355-5777. מיר קענען איך געבן א דאלמעטשער פריי פון אפצאל אין די שפראך וואס איר רעדט.

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